

China's IP  
in foreign eyes

The World Intellectual Property Indicators 2016 report confirmed steady growth in most types of IP filings around the world, with activity in China as one of the main drivers. China's State Intellectual Property Office (SIPO) has been the busiest patent office in the world since 2011. (*China Remains World's Busiest IP Center*, by Bloomberg Business Week)

WIPO的2016世界知识产权指数报告显示,中国成为全球各类知识产权申请量增长的主要驱动力。中国国家知识产权局自2011年起就成为全世界受理专利申请量最大的机构。“中国仍是全球最繁忙的知识产权机构”,彭博商业周刊)

Comment

In recent years, China's IP creation level has been significantly improved, and the creative awareness of the whole society on IP has been generally increased. Now, the Chinese government has indicated that it wishes to start emphasizing quality over quantity.

点评

近年来,中国的知识产权创造能力大幅提升,全社会的知识产权创造意识不断增强。与此同时,中国并不满足于知识产权数量上的优异表现,而是在知识产权质量提升方面展现了信心和决心。



To find good intellectual properties, entertainment executives are mining a once-secluded corner of the internet that has become a booming billion-dollar business: a flourishing online literary world that bypasses ink and paper entirely to grab readers by their smartphones, with subjects like tomb raiding, science fiction, fantasy, romance and martial arts. (*Craving a Hot TV Show in China? Start Scouring the Web*, by The New York Times)

为了寻找好的IP,娱乐公司高管们开始挖掘互联网上这个曾经不被看好、如今却价值数十亿美元的市场:蒸蒸日上的网络文学世界。它完全省略了书籍印刷制作的过程,以盗墓、科幻、玄幻、爱情和武侠等题材在手机上捕获读者。“在中国寻找一部热门影视剧本?从网上搜索开始”,纽约时报)

Comment

The value that online literature in China creates shocks the world. A lot of online novels have become the “gold mine” for film and drama development. As film and TV drama producers are scrambling for these online novel resources, the royalty for adaptation right of these novels also significantly rises. Therefore, the copyright owner and various film and TV drama producers are required to carefully deal with issues that may involve copyright, so as to avoid possible interest disputes.

点评

中国网络文学所创造的价值让世人震惊。大量的网络小说已成为影视剧开发的“金矿”。在影视公司的争夺下,网络小说的改编版权费也水涨船高。权利人以及各影视公司应当谨慎对待网络文学版权,避免利益纠纷。(孙迪)

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Henli sues three clothing compaies for trademark infringement  
商标侵权,当心“韩流”变“寒流”

In recent years, the popular TV, movies and variety show from South Korea spread rapidly through Asia and we called it Korean Wave. Some people found business opportunity from the wave, and they began to sell South Korea clothes through various means. The infringement goods, however, can be found in the mix.

As the JAMY Global and Accommate Company Limited distributed the clothes products which suspected of infringing the trademark right of orangeflower on their website, Henli International Garments (HK) LTD recently sued the above two companies and Guangzhou Handou Trade Company for trademark infringement and unfair competition, and sought 10.08 million yuan in damages.

According to the information provided by Accommate, after the above online platform specialized in distributing South Korea clothes was established by Accommate, the JAMY was initiated later. From then on, the platform was partly operated by JAMY. After the clothes sellers joined the platform, the consumers could buy the products showcased on that platform. Accommate charges South Korea companies a premium for services.

Through many years' operation, there were maximum 80 clothes sellers joined the site, with consumers spanning China and Japan.

Since 2011, more and more clothes with the trademark of orangeflower appeared on the site, which causing the Henli Company some concern. Besides, the above two companies still conduct online promotion, investment attraction and distribution via orangeflower. They also developed agents nationwide. Henli is the trademark owner of orangeflower. So Henli held that the two companies' action has bought damages to the interests of Henli, and such behavior has constituted trademark infringement and unfair competition.

For such strong charge, the two companies alleges that the products showcased on the online platform was produced and distributed by South Korea's WITH TJ and Orangeflower Company. JAMY is just a company providing network services, and did not engage in production and distribution of any infringing products, so the trademark infringement was not constituted.

Tianhe Court held that the three companies infringed trademark right of Henli, and unfair competition was

also constituted. The court ordered the two companies to pay 9.98 million yuan to Henli according to Chinese trademark law.

After the first-instance decision was made, Guangzhou Handou Company did not lodge an appeal, and the sentence has been carried out. The disgruntled JAMY and Accommate then launched an appeal to the Guangzhou IP Court. The court, through the trail, maintained the decision made by Tianhe Court and rejected the appeal of the two companies.

(by Jiang Xu/Xiao Shengcheng)

本报记者 姜 旭

通讯员 肖展程

随着韩国影视剧、综艺节目的热播,亚洲地区掀起了一股“韩流”,不少人从“韩流”中嗅得商机,通过各种途径销售韩国服装等产品,但是,也随之出现了一些涉嫌侵权的商品。

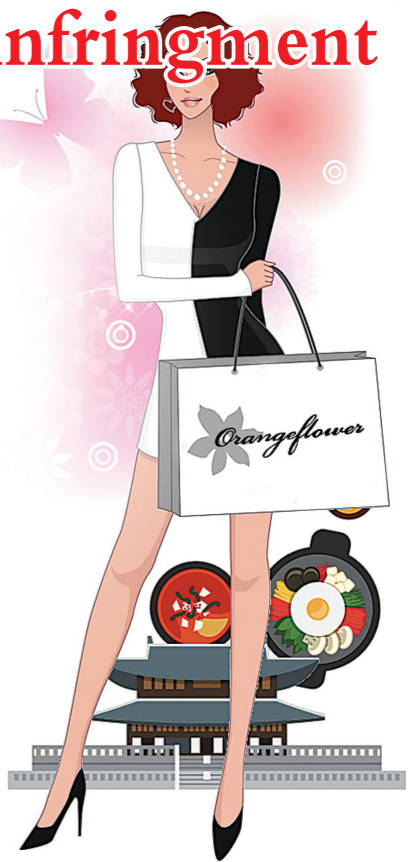
因为杰薄斯贸易(上海)有限公司(下称杰薄斯)和艾克玛特集团有限公司(下称艾克玛特)在共同经营的购物网站上不仅大量销售了涉嫌侵犯其合法享有的“orangeflower”注册商标专用权的服装产品,还通过发展代理商等形式谋取巨额利益,构成商标侵权和不正当竞争,恒利国际服装(香港)有限公司(下称恒利公司)将上述两家公司及广州韩兜免有限公司(下称韩兜免公司)等告上法庭,索赔经济损失等共计1008余万元。

据艾克玛特提供的资料显示,艾克玛特创建了上述专注于韩国服装交易的网络平台后,又成立了杰薄斯,并由后者对平台进行部分运营。当韩国服装企业入驻该平台后,消费者可购买网站上展示的商品,艾克玛特则向韩国企业收取相应的服务费(即佣金)。经过多年运营,最高时有80多个韩国服装企业进驻该平台,消费者遍布中国和日本等。

但让恒利公司不满的是,自2011年起,该平台上展出了大量以“orangeflower”为商标的服装。艾克玛特和杰薄斯还以“orangeflower”为品牌进行线上推广、招商、销售等,并在全国范围内发展代理商。恒利公司系“orangeflower”商标的权利人。恒利公司认为,艾克玛特和杰薄斯的上述做法,严重损害了恒利公司的合法权益,构成商标侵权和不正当竞争。

对于恒利公司的指控,艾克玛特和杰薄斯辩称,网络平台上展示的涉案商品是由韩国的WITH TJ株式会社和Orangeflower株式会社生产、提供和发货,杰薄斯仅是提供网络服务的公司,不生产、销售任何涉案产品,因此不构成商标侵权。

天河法院经审理认为,杰薄斯和艾克玛特等构成对恒利公司商标权的侵犯,亦构成虚假宣传的不正当竞争。对于侵权赔偿方面,一审法院根据我国商标法规定,判决杰薄斯、艾克玛特赔偿恒利公司998万元。



一审判决后,韩兜免公司未提起上诉,且已根据一审判决执行完毕。杰薄斯和艾克玛特表示不服,向广州知识产权法院提起上诉。经审理,广州知识产权法院认为一审判决并无不当,维持了一审判决,驳回了杰薄斯和艾克玛特的上诉。



China's newly passed Cyber Security Law focused on protecting cyber intellectual property  
网络安全法获高票通过 明确保护网络技术知识产权

The 12th National People's Congress of China recently passed Cyber Security Law, which would be a basic law in China's cyber field. The Law will be put into force on June 1st, 2017, and will be focused on personal information protection, cyber intellectual property protection, and anti-cyber fraud.

According to the law, the State Council and the people's governments of provinces, autonomous regions and municipalities shall make

overall plans and provide more financial investment to support cyber security technology in key industries and projects, to promote researching and application in cyber security technology, to popularize safe and credible cyber products and services, to protect cyber intellectual property, and to encourage companies, research agencies and universities taking part in China's cyber security technological innovation projects.

To address the issue of personal

information protection, the law rules that, any cyber product or service may collect users' information shall express the function to users and obtain the consent first; any ISP shall not reveal, tamper and damage users' personal information collected; any person or organization shall not steal or illegally obtain users' personal information, and shall not illegally sell or supply users' personal information to others. The law also ruled the responsibility to be borne by the

offender.

本报综合消息 十二届全国人大常委会第二十四次会议日前表决通过了《中华人民共和国网络安全法》。这是中国网络领域的基础性法律,明确加强对个人信息保护,打击网络诈骗。该法自2017年6月1日起施行。

网络安全法规定,国务院和省、自治区、直辖市人民政府应当统筹规划,加大投入,扶持重点网络安全技术产业和项目,支持网络安全技术的研究开发和应用,推广安全可

信的网络产品和服务,保护网络知识产权,支持企业、研究机构和高等学校等参与国家网络安全技术创新项目。

针对个人信息泄露问题,网络安全法规定:网络产品、服务具有收集用户信息功能的,其提供者应当向用户明示并取得同意;网络运营者不得泄露、篡改、毁损其收集的个人信息;任何个人和组织不得窃取或者以其他非法方式获取个人信息,不得非法出售或者非法向他人提供个人信息,并规定了相应法律责任。



Elder Bai and his story of Yangling Fair  
柏老汉杨凌赶集记

Although it is not far from Feng Villiage, Linzhao Township, located in southwest of Xi'an City to Yangling, it is difficult for Bai Zongzhang, an age of 80, to cover this 70 kilometers. He first get to long-distance bus station of Chang'an District, then take one-hour bus and hike into the villiage after get off the bus to the destination where the 23th China Yangling Agricultural Hi-Tech Fair was held.

The elder Bai came to the fair almost every year, with the hope of finding some high quality farm crop seeds. But Bai find something new at this year's fair. Upon entering the exhibit area, Bai was attracted by the sign of Yangling IP Promotion Center. Everything is strange to Bai at the center, because many agriculture-related patents, GIs and new varieties of plants were exhibited there. Since Bai had no smartphone, he then took his notebook and pen, spent more than two hours on making notes at the center.

This is Datang 128 Corn, with the application number of new varieties of

plant 20150451.3. It is suitable for plant in Guanzhong area in spring. Though the classification of IP and its application number are not well known by elder Bai, he is very knowledgeable when talking about crops. “This kind of drought and flood resistance corn is better than the corn currently being grown if the expert said is true,” said Bai. In the previous fairs, he often spent a lot time in going around some big pavillions to find some suitable seeds and seedling. In this year's fair, thanks to the Yangling IP Promotion Center, Shannxi IP Office and Administrative Committee of Yangling Demonstration Zone has pooled resources from all sectors to provide a group of IPR-reliant agricultural products, which was well received by farmers.

After reading about Datang 128 Corn, elder Bai had more interesting in the IPR-reliant products in GIs pavilion and agriculture-related patent pavilion. “I just know about patent can play a vital role in launching satel-

lite and some patents can help farmers to plant and reap. Patent is fruit of innovation,” said Bai. Taking a notebook which was filled with IPR-reliant technologies, elder Bai was so impressed by the technological innovation. Thanks to the China's new generation of farmer's aspiration for the innovation represented by elder Bai, the fair has not only enjoyed popularity among farmers and innovators, but also reflected people's expectation for harvest.

(by Cui Jingsi)

本报记者 崔静思

从西安市西南的灵沼乡冯村去往杨凌的路程并不遥远,但是对于虚岁已经80岁的老汉柏宗璋而言,这70多公里的行程还是要颇费一番周折的。先要搭车到长安区的长途车站,然后坐上1个多小时的大巴,下车后还要徒步走一阵子才能到达此行的目的地——第二十三届中国杨凌农业高新科技成果博览会(下称农高会)的核心展馆。

农高会,柏老汉年年都要来,希望能寻到些优质的农作物种子。今年的

农高会,柏老汉见识到了新鲜事。刚刚步入展区,他就被“杨凌知识产权促进中心”的招牌吸引住了。促进中心里的每个展区对老汉来说都很新鲜:涉农专利、地理标志证明商标、植物新品种……老汉没有智能手机,便拿出随身携带的小本子和签字笔,在促进中心里一站就是两个多小时。

“大唐128玉米,新品种保护申请号:20150451.3,适宜关中海拔650米以下地区春播种植……”虽然对知识产权的类别和申请号不甚清楚,但一说到农作物,柏老汉的渊博可是一般人不敢小觑的。“这种玉米抗旱抗涝,还抗各种病,要真是按专家说的能保证收成,可比我现在种的玉米强。”柏老汉说,往年的农高会,他都要在几个大展馆里转上很久,寻找适合自己地里的种子和幼苗有如大海捞针。而今年农高会,随着杨凌知识产权促进中心的成立,陕西省知识产权局和杨凌示范区管委会集聚各方资源,为广大农户和志在创新创业的农企精准推荐了一批拥有自主知识产权的农产品,受到了参会者的热捧。

这不,柏老汉在研究完玉米新品种大唐128后,又对地理标志展区的“平利绞股蓝”和涉农专利展区的“基



因重组皮尔瑞俄类芽孢杆菌及其构建方法和应用”两个展品来了兴致。“我也是几年前开始读报,才知道有专利这个东西,这是个好东西,高科技的专利能帮着咱们的火箭卫星上天,一般的专利能帮着咱们农民种地收割,专利就是创新嘛。”柏老汉这样解释着。带着记录了一批拥有自主知识产权的新技术新品种的笔记本,满载而归的柏老汉对科技创新发出了由衷的赞叹。以柏老汉为代表的中国新一代农户对科技创新的渴求,不仅使得农高会的人气一年高过一年,也寄托了人们对丰收的期望。